

**Notice of Allowability**

Application No.

10/821,074

Examiner

Lee Fineman

Applicant(s)

EBERHARDT ET AL.

Art Unit

2872

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed 9/25/06.
2. ☒ The allowed claim(s) is/are 1,3 and 5-18.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

### **DETAILED ACTION**

This Office Action is in response to an amendment filed 25 September 2006 in which claims 1, 3 and 5-8, were amended. Claims 1-21 are pending of which claims 2, 4 and 19-21 are withdrawn.

#### ***Election/Restrictions***

1. This application is in condition for allowance except for the presence of claims 2, 4 and 19-21 directed to species non-elected without traverse. Accordingly, claims 2, 4 and 19-21 have been cancelled.

#### ***Drawings***

2. The replacement drawings for figs. 1 and 2 and new fig. 5 were received on 25 September 2006. These drawings are acceptable.

#### ***Specification***

3. It is noted by the Examiner that the objections to the specification made in the previous Office Action have been withdrawn due to amendment by the Applicant.

#### ***Allowable Subject Matter***

4. Claims 1, 3 and 5-18 are allowed.

5. The following is an examiner's statement of reasons for allowance:

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Claims 1, 3 and 5-18 are allowable over the prior art for at least the reason that the prior art fails to teach and/or suggest “an electronic control and imaging system adapted to control the laser light beam emitting means to emit individual laser light beams sequentially at selected wavelengths and adapted to dynamically adjust drive parameters of said acousto-optical deflector by dynamically controlling the start frequency and end frequency of the acousto-optical deflector in such a way as to maintain a constant line scanning position at all input beam wavelengths and dynamically controlling the rate of frequency change of the drive signal to the acousto-optical deflector in such a way as to obtain a constant lensing effect at all input beam wavelengths, to maintain alignment of the scan lines of the image at all wavelengths” as set forth in the claimed combination.

Engelhardt et al., US 2002/0027709 A1 (fig. 1) and Houpt et al., US 4,863,226 (figs. 1 and 4) both disclose laser confocal scanning microscopes comprising: a laser light source, a first deflector including an acousto-optical deflector for effecting line scanning, at least one objective, a second deflector positioned between said acousto-optical deflector and said at least one objective for effecting frame scanning, at least one detector and an electronic control and imaging system. However neither reference discloses the electronic control and imaging system adapted to control the laser light beam emitting means to emit individual laser light beams sequentially at selected wavelengths and adapted to dynamically adjust drive parameters of said acousto-optical deflector by dynamically controlling the start frequency and end frequency of the acousto-optical deflector in such a way as to maintain a constant line scanning position at all input beam wavelengths and dynamically controlling the rate of frequency change of the drive signal to the acousto-optical deflector in such a way as to obtain a constant lensing effect at all

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input beam wavelengths, to maintain alignment of the scan lines of the image at all wavelengths as claimed. Further although Blazey teaches an electronic control adapted to control a laser light beam emitting means sequentially by dynamically adjust drive parameters of said acousto-optical deflector, there is no suggestion to combine this reference with Engelhardt et al. or Houpt et al. to obtain constant lensing effects at all input beam wavelengths.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Fineman whose telephone number is (571) 272-2313. The examiner can normally be reached on Monday - Friday 7:30 - 4:00.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew Dunn can be reached on (571) 272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



LAF  
8 December 2006

  
MARKA. ROBINSON  
PRIMARY EXAMINER